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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No. 2:23-cv-01195-JLS-SK

Date: November 30, 2023

Title: Caleb L. McGillvary et al v. Netflix, Inc. et al

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Present: **Honorable JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE**

Gabby Garcia  
Deputy Clerk

N/A  
Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendant:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER REGARDING PLAINTIFF’S  
SERVICE-RELATED MOTIONS (Docs. 24, 36, 56 & 58)**

Before the Court are four service-related motions filed by Plaintiff Caleb McGillvary: (1) a motion to serve foreign defendants by international mail (Doc. 24); (2) a motion to serve certain defendants by publication (Doc. 56); (3) a motion to extend the time for service by 60 days from the date of this Order (Doc. 58); and (4) a motion for service by the United States Marshal (Doc. 36).

First, the motion to serve foreign defendants by international mail (Doc. 24) is **DENIED**. Plaintiff has made no showing as to why service cannot be effected “by any internationally agreed means of service” under Rule 4(f)(1).

Second, the motion for service by publication (Doc. 56) is **DENIED**. Plaintiff has not demonstrated that the specified Defendants “cannot with reasonable diligence be served” personally or by mail. Cal. Civ. Proc. Code § 415.50(a).

Third, Plaintiff’s motion to extend the time for service (Doc. 58) is **GRANTED**. The time to effect service is extended by **60 days** from the date of this order.

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Fourth, Plaintiff’s motion for service by the United States Marshal (Doc. 36) is **GRANTED**. Plaintiff provided and the Court has received a completed USM-285 form for each named Defendant. (*See* Doc. 58 ¶ 7.) The Court shall transmit those forms to the United States Marshal. A request and declaration having been presented in compliance with the provisions of 28 U.S.C. § 1915 and an Order having been filed permitting commencement of suit without prepayment of filing fees (*see* Docs. 11, 17 & 22), IT IS HEREBY ORDERED that the United States Marshal is authorized to proceed with service of process without prepayment of costs upon the Defendants identified in the USM-285 forms that Plaintiff has provided.

Plaintiff is cautioned that he is ultimately responsible for providing the correct full name and address for each defendant. If the United States Marshal is unable to effectuate service through no fault of his own—for example, because Plaintiff failed to provide information sufficient to identify the Defendant or because the Defendant is not where Plaintiff claims—Plaintiff must immediately seek to cure the deficiency. Failure to provide a Defendant’s full name and current address where necessary to complete service may result in dismissal of Plaintiff’s claims against that Defendant pursuant to Federal Rule of Civil Procedure 4(m).

The Clerk is DIRECTED to provide the United States Marshal with a copy of this Order. Upon receipt of this order, the United States Marshal may request that Defendants waive service. If a waiver of service is not returned by a Defendant within thirty (30) days of the date of mailing a request for waiver, the United States Marshal shall serve process upon that Defendant. When effecting service on the international Defendants, the United States Marshal shall disregard the special instructions Plaintiff provided in the form USM-285 for those Defendants. As explained above, the Court has DENIED Plaintiff’s request to serve foreign defendants by international mail (Doc. 24) and ORDERS instead that these Defendants be served “by any internationally agreed means of service reasonably calculated to give notice, such as those authorized by the Hague

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Convention on the Service Abroad of Judicial and Extrajudicial Documents.” Fed. R. Civ. P. 4(f)(1).

This Order is without prejudice to the right of Defendants to make any motion under the Federal Rules of Civil Procedure challenging the sufficiency of the complaint, the sufficiency of any claim contained therein, or the sufficiency of the process received, or challenging the complaint on any other basis.

Initials of Deputy Clerk: gga